

ITEM NO.1

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH I.A.Nos.27-30, 33, 41, 42, 43, 45 in I.A.Nos.41, 46, 47, 51,
52, 55-57, 63-74, 76, 78-90, 92-94, 96, 98-103 in W.P.
(C)No.196/2001

(For direction, permission to file the appln. for direction,
permission to place on record addl. Documents, taking on record
the documents at Annexure "A", permission to allow the
application, c/delay in filing affidavit, modification, exemption
from filing O.T., Impleadment, permission to file rejoinder
affidavit to counter affidavit of State of Maharashtra,
Modification of court's order dated 27.04.2004, 07.10.2004,
13.12.2006 & 22.04.2009, permission to Govt. Resolution dated
3.11.2007 in P.D.S. In Maharashtra State, comprehensive report
submitted by Special Commissioner

with
Supreme Court direction to treat as I.A. vide order dated
27.01.2010 and intervention)

WITH

Conmt.Pet.(C)No.99/2009 in W.P.(C)No.196/2001
(With appln.(s) for exemption from filing O.T.)

Date: 21/07/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Mr. Divya Jyoti, Adv.
Ms. Jyoti Mendiratta, Adv.

For Respondent(s) Mr. Mohan Parasaran, ASG
Mr. B. Chidanand, Adv.
Ms. Sunita Sharma, Adv.
Mr. Krishna Kumar, Adv.
For Ms. Sushma Suri, Adv.
For Ms. Anil Katiyar, Adv.
For Mr. D.S. Mehra, Adv.

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Mr. Jana Kalyan Das, Adv.(NP)

Ms. Hemantika Wahi, Adv.
Ms. Nupur Kanungo, Adv.

State of Haryana NONE

State of Orissa NONE

State of Chhattisgarh NONE

Mr. B.V. Balaram Das, Adv.(NP)

Mr. P.V. Yogeswaran, Adv. (NP)
Ms. Indra Sawhney, Adv. (NP)
Dr. Manish Singhvi, Sr. Adv.
Mr. Devanshu Kumar Devesh, Adv.
Mr. Milind Kumar, Adv.
Mr. Riku Sharma, Adv.
for M/s. Corporate Law Group, Advs.
Ms. Rachana Srivastava, Adv.
Mr. T.V. George, Adv. (NP)
Ms. Kamini Jaiswal, Adv. (NP)
Mr. Khwairakpam Nobin Singh, Adv.
Mr. Ranjan Mukherjee, Adv.
Mr. V.G. Pragasam, Adv.
Mr. S.J. Aristotle, Adv.
Mr. Prabu Ramasubramanian, Adv.
Mr. Jatinder Kumar Bhatia, Adv. (NP)
Mr. Pramod Swaup, Sr. Adv.
Mr. Sahil K. Dwivedi, AAG
Mr. R.K. Gupta, Adv.
Mr. Rajiv Dubey, Adv.
Mr. Kamalendra Mishra, Adv.
Mr. Ravi Prakash Mehrotra, Adv. (NP)

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Mr. Gopal Singh, Adv.
Mr. Manish Kumar, Adv.
Mr. Rituraj Biswas, Adv.

Mr. Tara Chandra Sharma, Adv.
Ms. Neelam Sahrma, Adv.

Mr. Anil Shrivastav, Adv.
Mr. Ritu Raj, Adv.

Mr. Edward Belho, Adv.
Mr. P. Athuimei R. Naga, Adv.
Mr. Enatoli Sema, Adv.
Mr. Rituraj Biswas, Adv.

Mr. Mohan Parasaaran, ASG
Mr. T. Harish Kumar, Adv.

Mr. P. Parmeswaran, Adv.
Mrs. Anuja Chopra, Adv.

Mr. D.K. Sinha, Adv. (NP)

Mr. Gopal Prasad, Adv.

Ms. Anjana Chandrashekar, Adv. (NP)

Mr. Ramesh Babu M.R., Adv. (NP)

Ms. D. Bharathi Reddy, Adv. (NP)

Mr. Sanjay R. Hegde, Adv.
Mr. Ramesh Kr. Mishra, Adv.
Mr. Krutin Joshi, Adv.
Mr. Ramesh S. Jadhav, Adv.
Mr. Vikrant Yadav, Adv.

Ms. Sumita Hazarika, Adv.

Ms. Jayshree Anand, AAG.
Mr. K.K. Mahalik, Adv.
Mr. Ajay Pal, Adv.

Ms. A. Subhashini, Adv.

Mr. Kuldip Singh, Adv.

Mr. Ravindra Keshavrao Adsure, Adv. (NP)

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Mr. Ajay Majithia, Adv.
Mr. Rajesh Kumar, Adv.
Mr. Prashant Kumar, Adv.

Mr. Vishwajit Singh, Adv.

Mr. Sanjay V. Kharde, Adv.
Ms. Asha G. Nair, Adv.

Mr. K.V. Mohan, Adv.

Mr. Rajesh Srivastava, Adv. (NP)

Mr. Anuvrat Sharma, Adv.

Mr. K.N. Madhusoodhanan, Adv.
Mr. R. Sathish, Adv.

Mr. R.C. Kaushik, Adv.

Mr. Pradeep Misra, Adv. (NP)

Mr. Venkateswara Rao Anumolu, Adv. (NP)

Mr. Vikas Upadhyay, Adv.
For Mr. B.S. Banthia, Adv.

Mr. G. Prakash, Adv.

Mr. Anil Kumar Jha, Adv.

Mr. Vikas Mehta, Adv.

Mr. Kamalendra Mishra, Adv.

Mr. Naresh K. Sharma, Adv.

Mr. Anis Suhrawardy, Adv. (NP)

Mr. Sunil Fernandes, Adv.
Mr. Rajat Jariwal, Adv.
Ms. Renu Gupta, Adv.

Mr. S.M. Jadhav, Adv. (NP)

Mrs. Aruna Mathur, Adv.
Mr. Amarjeet Singh Girsra, Adv.

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Mr.Pramod Swarup, Sr.Adv.
Mr.Abhijit Sengupta, Adv.
Mr.Sachin Das, Adv.

Mr.M.N.Krishnamani, Sr.Adv.
Mr.Bikas Kargupta, Adv.
Mr.Abhijit Sengupta, Adv.
Ms.M.Indrani, Adv.
Mr.Sachin Das, Adv.

Mr.Manish Pitale, Adv.
Mr.Wasi Haider, Adv.
For Mr.C.S.Ashri, Adv.

Mr.A.K.Singh Tarun, Adv.
For Mr.Debasis Misra, Adv.

UPON hearing counsel the Court made the following
O R D E R

In re : State of Andhra Pradesh:

As far as State of Andhra Pradesh is concerned,
learned counsel appearing for the State, who has just
received instructions, prays for some time. We grant two
months' time to implement all previous orders of this
Court. An affidavit may be filed by the concerned
Secretary/Chief Secretary within two months.

In re: State of Bihar:

In pursuance to the directions of this Court, on
2nd June, 2010, the Chief Secretary, State of Bihar has
filed an affidavit. In the said affidavit it is indicated
that considering the importance of the subject, the
Hon'ble Chief Minister has convened a high level meeting
which was attended by the Minister of Health, Minister

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for Food and Consumer Affairs, Minister for Social
Welfare Department, Advocate General, Standing counsel
for the State of Bihar in the Supreme Court, The Chief
Secretary, Development Commissioner and Secretaries of
the departments concerned were also present.

Hon'ble Chief Minister was of the view that the

recommendations made by the Court Commissioner is indeed in public interest and would subserve a noble cause. The recommendations, on their implementation, would go a long way in mitigating the plight of those people of the State who have no shelter and no means to afford minimum food requirement. In the meeting it was decided that, as a first step, three new shelters be constructed at Patna and one in each of the divisional towns of Chapra, Muzaffarpur, Darbhanga, Saharsa, Purnia, Bhagalpur, Munger and Gaya for urban homeless. The Department of Urban Development and Housing has already initiated steps for release of funds to the concerned Municipal Corporations/Town Committees. It has been decided in the said meeting to renovate the existing permanent/night shelters in each of these towns. It has further been decided to make arrangements for meals for urban homeless people at subsidized rates. In addition, it has been decided to conduct a survey of urban homeless people under the guidance of the Department of Urban Development

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and Housing. It has been decided that the Department of Urban Development and Housing would ensure admission of homeless street children in the existing residential schools. In the affidavit it was also incorporated that the Department of Urban Development and Housing has sanctioned a sum of Rs.1.86 crore to the Municipal Corporations/Town Committee concerned vide letter dated 20.05.2010. The Department of Urban Development and Housing has earlier vide their letter dated 15.05.2010 had directed the concerned Municipal Corporation/Town Committee to initiate steps for establishing the shelters. We are very happy to note the change of attitude in the stand of the State. The State has also mentioned in the affidavit that the State of Bihar fully

shares the anxiety of the Court and assured the Court that it shall take all possible steps which would go to ameliorate the living condition of homeless people and unprotected children.

We hope and trust that all the shelters shall be constructed as expeditiously as possible, in any event, before the next winter.

In re State of Goa:

Ms.Subhashini, learned standing counsel appearing for the State of Goa submitted that the problem of homeless people which require night shelter/permanent shelter does not exist in Goa, except for the migrated

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people. Learned counsel for the petitioner may inquire about it and submit an affidavit.

In re State of Gujarat:

Learned counsel appearing for the State of Gujarat undertakes to file a better affidavit. Let the affidavit now be filed by the Chief Secretary of the State.

In re State of Jammu & Kashmir:

Learned counsel appearing for the State submits that he will file a comprehensive affidavit within two months.

In re State of Jharkhand:

ON 31.03.2010, an affidavit was filed by the State of Jharkhand in which it was mentioned that funds have already been allocated for construction of night/permanent shelters in the State and they are planning to develop night/permanent shelters in Ranchi, Dhanbad, Chaibasa, Deoghar and Jasidih municipalities.

Learned counsel appearing for the State prays for some to file the latest status report. Let that be filed within two months.

In re State of Karnataka:

Mr.Sanjay Hegde, learned standing counsel for the

State has handed over an affidavit of the Chief Secretary to the State of Karnataka in Court today. In the affidavit it is mentioned that a meeting was held under

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the Chairmanship of the Additional Chief Secretary to Government, Urban Development Department on 17-06-2010 and it was decided to conduct a detailed survey to provide night/permanent shelter. It was further indicated in the affidavit that the entire survey would be completed by the end of August, 2010 and immediately after the survey is completed, concrete efforts would be taken to provide permanent/night shelter for the homeless people in the State of Karnataka.

In re State of Kerala:

Learned counsel appearing for the State of Kerala submitted that the intensity of the problem does not exist in the State of Kerala. Learned counsel appearing for the petitioner prays for some time to file a report about the State of Kerala. Let the report be filed within two months.

In re State of Maharashtra:

Learned counsel appearing for the State of Maharashtra submits that, in principle, the Government has agreed to provide shelters for the homeless. The modalities are being worked out. He prays for four weeks time to communicate the decision of the State. List after four weeks.

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In re State of Punjab:

Learned counsel for the State prays and is granted four weeks' time to communicate the decision of the State. List after four weeks.

In re State of Rajasthan:

The Chief Secretary to the State of Rajasthan has

filed an affidavit in which it is incorporated that an order was issued by the State on 07.12.2009 to all the urban local bodies including municipal corporations for construction of night shelters.

It is also mentioned in

the affidavit that all the municipalities of the State are running 240 night shelters.

It was also mentioned in

the affidavit that new guidelines have been framed for

providing shelter to the homeless persons providing shelter not only confining to night shelter during

winters but also in summers as the temperature soars to

about 50 degree centigrade in the State. The broad

contours of the guidelines would indicate that the State

undertake to make necessary provision of clean potable

water and other infrastructure facilities to ensure

dignity of an individual. They have also given the

guidelines which have been incorporated for the homeless

people.

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In re State of Sikkim:

On 31.03.2010, an affidavit was filed on behalf of the State of Sikkim in which it was mentioned that the State Government has started to construct 52 units for housing of urban poor and the same is at the verge of completion. We grant two months time to the State of Sikkim to submit the latest status report.

In re State of Tamil Nadu:

Mr.Mohan Parasaran, learned Additional Solicitor General appearing for the State of Tamil Nadu submitted that, in principle, the State has agreed to provide night/permanent shelters to the homeless and prays for some time to file an appropriate affidavit. Let that be done within four weeks. List after four weeks.

In re State of Uttar Pradesh:

Mr.Promod Swarup, learned senior counsel appearing

for the State of Uttar Pradesh submits that the State, in principle, has agreed to comply with the order and in pursuance of the order of this Court 7 permanent and one temporary shelter have already been constructed and the remaining shelters would be constructed as expeditiously as possible. We would like the State of Uttar Pradesh to file the latest status report within four weeks.

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In re State of West Bengal:

Mr.T.C.Sharma, learned standing counsel appearing for the State of West Bengal submits that he has sent three communications to the Chief Secretary as well as to the Nodal Officer but he is not getting any response. On the next date of hearing we would like the Chief Secretary and the Nodal Officer of the State to remain present in Court, if the affidavit is not filed.

In re Chandigarh:

The Union Territory of Chandigarh has not filed any affidavit after the order of this Court dated 05.05.2010. One more opportunity is granted to the Union Territory of Chandigarh to file an affidavit. Let the same be filed within four weeks, failing which the Chief Secretary of Chandigarh shall remain present in Court on the next date of hearing.

In re GNCT of Delhi:

In the last affidavit filed in April 2010 by Government of National Capital Territory of Delhi, they assured the Court that required number of night/permanent shelters would be constructed and all possible amenities would be provided. We expect the Government to construct the night/permanent shelters in Delhi latest by 31st October, 2010 because the winter starts setting in

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thereafter. Learned Additional Solicitor General undertakes to file a comprehensive affidavit within four weeks.

In re State of Madhya Pradesh:

Learned counsel appearing for the State prays and is granted four weeks time to file the latest status report. List after four weeks.

In re State of Haryana:

The matter has been passed over for once and called for second time. No one appears on behalf of the State of Haryana and no affidavit has been filed after 05.05.2010, as directed by this Court. We would like the Chief Secretary of the State to remain present on the next date of hearing, in case the affidavit is not filed.

In re State of Orissa:

The matter has been passed over for once and called for second time. No one appears on behalf of the State and no affidavit has been filed after 05.05.2010, as directed by this Court. We would like the Chief Secretary of the State to remain present on the next date of hearing, in case the affidavit as directed by this Court is not filed within four weeks.

Let all the States, which were required to file their affidavits after the order of this Court on 05.05.2010 and who have not filed, they are given one

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more opportunity. Let the affidavit be filed within four weeks.

List this matter on 31.08.2010 for directions.

I.A.No.98:

This application has been filed on behalf of Union of India, Ministry of Health and Family Welfare in which they have sought following directions :

1. to permit Union of India to continue implementation of Janani Suraksha Yojana in terms of the observations made by

this Hon'ble Court in para 15 of the order dated 20.11.2007 and in terms of the existing guidelines by duly taking into account that the salient features of National Maternity Benefit Scheme have been duly incorporated and subsumed in Janani Suraksha Yojana,

2. to modify the direction contained in para 14(b) of the order dated 20.11.2007 and permit Union of India to provide cash assistance of Rs.500 in case of home deliveries to pregnant women for upto the first two live births, provided they are of 19 years of age,
3. to permit the continuation of the system of payment of Janani Suraksha Yojana to the woman after the delivery instead of 8-12 weeks prior to delivery.

Issue notice. Non-applicants would be at liberty to file reply to this application within four weeks and to come up on 31.08.2010.

I.A.No.90:

List on 27.07.2010.

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In re: Reports of Justice Wadhwa:

Mr.Mohan Parasan, learned Additional Solicitor undertakes to place all the Reports filed by Justice Wadhwa on the next date of hearing i.e. on 27.07.2010.

I.A.NO.102:

Issue notice. Reply, if any, be filed before the next date of hearing i.e. 27.07.2010.

I.A.No.103:

Issue notice. Reply, if any, be filed before the next date of hearing i.e. 27.07.2010.

Mr.Colin Gonsalves, learned senior counsel has brought to our notice that three reports filed by the Commissioner i.e. Drought protocol dated 26.09.2009, Starvation Protocol dated 26.09.2009 and on Bihar Floods with UNDP report. Mr.Parasaran, learned ASG prays for some time to take instructions. He may file the response within four weeks.

(G.V.RAMANA)
COURT MASTER

(NEERU BALA VIJ)
COURT MASTER

ITEM NO.MM-A

COURT NO.4

SECTION PIL

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A.No.93 in WRIT PETITION (CIVIL) NO. 196 OF 2001

PEOPLE'S UNION FOR CIVIL LIBERTIES

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date: 21/07/2010 This application was mentioned today.

CORAM :

HON'BLE MR. JUSTICE DALVEER BHANDARI
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
 Mr. Divya Jyoti, Adv.
 Ms. Jyoti Mendiratta, Adv.

For Respondent(s)/ Mr. Raju Ramachandran, Sr. Adv.
applicant(s) Mr. Kh. Nobin Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

As requested, list this matter along with connected matters which are listed on 27.07.2010.

(G.V.RAMANA)
COURT MASTER
(Mentioned slip enclosed)

(NEERU BALA VIJ)
COURT MASTER